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FIRST GENERAL COUNSEL'S REPORT

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DATE COMPLAINT FILED: 02/26/15

DATE OF NOTIFICATIONS: 03/03/15, 08/07/15

LAST RESPONSE RECEIVED: 08/26/15

DATE ACTIVATED: 08/26/15

ELECTION CYCLES: 2012 and 2014

EXPIRATION OF SOL: 09/01/17 – 10/01/19

COMPLAINANT:

Ann Weismann, Interim Director
Citizens for Responsibility and Ethics
in Washington

RESPONDENTS:

Aaron Schock

Schock for Congress and Paul Kilgore
in his official capacity as treasurer

Schock Victory Committee and Paul Kilgore
in his official capacity as treasurer

GOP Generation Y Fund and Paul Kilgore
in his official capacity as treasurer

TC Investments 3, LLC

Todd Green

STATUTES AND REGULATIONS:

52 U.S.C. § 30104(a)

52 U.S.C. § 30114(c)(2)

52 U.S.C. § 30116(a)(1)(A), (C)

11 C.F.R. § 100.93(c)(3)

11 C.F.R. § 113.5(b)(5)

INTERNAL REPORTS CHECKED:

Disclosure Reports

FEDERAL AGENCIES CHECKED:

None

I. INTRODUCTION

Complainant alleges that between 2012 and 2014 then-Representative Aaron Schock used
various non-commercial aircrafts to travel on behalf of his authorized campaign committee

1 (Schock for Congress), joint fundraising committee (Schock Victory Committee), or leadership
2 PAC (GOP Generation Y Fund) in violation of the Federal Election Campaign Act of 1971, as
3 amended (the "Act"), and Commission regulations. The Complaint further alleges that TC
4 Investments 3, LLC ("TC Investments), one of the entities that provided non-commercial flights,
5 and its owner, Todd Green, made a prohibited or excessive contribution by providing campaign
6 travel to Schock without charge, and that the respondent committees failed to disclose these in-
7 kind contributions.

8 In a joint response, Schock for Congress, Schock Victory Committee, and GOP
9 Generation Y Fund neither confirm nor deny any factual details regarding Schock's alleged
10 campaign travel on non-commercial flights, but rather argue that the Complaint fails to establish
11 reason to believe that such non-commercial campaign flights violate the law.¹ TC Investments
12 and Todd Green deny making any in-kind contribution to Schock.²

13 Based on the available information, we recommend that the Commission find reason to
14 believe that (1) Aaron Schock violated 52 U.S.C. § 30114(c)(2), 11 C.F.R. §§ 100.93(c)(2) and
15 113.5(b) by traveling on non-commercial aircraft for campaign-related activity; and (2) Schock
16 Victory Committee and GOP Generation Y Fund violated 52 U.S.C. § 30114(c)(2) and 11 C.F.R.
17 § 113.5(b) by making expenditures for non-commercial campaign-related flights. Further we
18 recommend that the Commission take no action at this time with respect to allegations that
19 Aaron Schock and his principal campaign committee, Schock for Congress violated 52 U.S.C.
20 § 30118 or, in the alternative, 52 U.S.C. § 30116(f) by accepting prohibited corporate or
21 excessive in-kind contributions from TC Investments and its owner, Todd Green, or that Schock

¹ Schock did not file a response to the complaint.

² TC Investments Resp. at 1.

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1 for Congress failed to report the prohibited or excessive in-kind contributions. Finally, we
2 recommend that the Commission open an investigation and approve compulsory process.

3 **II. BACKGROUND**

4 In 2012 and 2014, Aaron Schock was a sitting Congressman and candidate for re-election
5 to Illinois' 18th Congressional District. Schock for Congress and Paul Kilgore in his official
6 capacity as treasurer ("Schock for Congress") was Schock's principal campaign committee.³

7 GOP Generation Y Fund and Paul Kilgore in his official capacity as treasurer ("Generation Y")
8 is registered with the Commission as a leadership PAC associated with Schock.⁴ Schock Victory
9 Committee and Paul Kilgore in his official capacity as treasurer ("Shock Victory Committee") is
10 a joint fundraising committee established under 11 C.F.R. § 102.17; Schock for Congress and
11 Generation Y are each participants in Schock Victory Committee.⁵

12 Between 2012 and 2013, Generation Y made five disbursements totaling \$5,887.80 to
13 Lobair LLC ("Lobair"), and two disbursements totaling \$3,391 to D&B Jet, Inc., ("D&B Jet")
14 for the purpose of "PAC Airfare." Further, in 2014, Schock Victory Committee made a single
15 disbursement to Lobair in the amount of \$2,826.63, also for "PAC Airfare." These
16 disbursements are detailed in the chart below.

³ See Statement of Candidacy, Aaron Jon Schock (Nov. 23, 2010); Statement of Candidacy, Aaron Jon Schock (Dec. 11, 2012); Statement of Organization, Schock for Congress (Feb. 3, 2015). Schock won both elections but resigned his office effective March 31, 2015.

⁴ See Amended Statement of Organization, GOP Generation Y Fund (Aug. 21, 2014).

⁵ See Amended Statement of Organization, Schock Victory Committee (Feb. 20, 2015). At the time of the alleged violations, Schock Victory Committee was comprised of Schock for Congress, GOP Generation Y Fund, 18th District Republican Central Committee and the National Republican Congressional Committee. See Amended Statement of Organization, Schock Victory Committee (June 10, 2011).

<u>DATE</u>	<u>PAYOR</u>	<u>PAYEE</u>	<u>REPORT</u>	<u>AMOUNT</u>
08/08/2012	Generation Y	Lobair	September 2012 Monthly	\$1,815.00
10/04/2012	Generation Y	D&B Jet	2012 Pre-General	\$1,558.63
10/30/2012	Generation Y	Lobair	2012 Post-General	\$1,125.25
11/15/2012	Generation Y	D&B Jet	2012 Post-General	\$1,832.53
01/08/2013	Generation Y	Lobair	February 2013 Monthly	\$932.80
01/15/2013	Generation Y	Lobair	February 2013 Monthly	\$935.00
05/17/2013	Generation Y	Lobair	June 2013 Monthly	\$1,079.75
01/08/2014	Schock Victory Committee	Lobair	April 2014 Monthly	\$2,826.63
			TOTAL	\$12,105.59

1
2 According to information contained in the Complaint, Lobair is a limited liability
3 company that consists of a single Cessna airplane owned by an individual in Peoria, Illinois, is
4 not a commercial charter service, and is not registered with the Federal Aviation Administration
5 ("FAA") for commercial use.⁶ D&B Jet is registered as a corporation in the state of Illinois with
6 Daren R. Frye as its President and registered agent, and Rebecca Frye as its Secretary.⁷

⁶ The Complaint bases these assertions on a *USA Today* article regarding Schock's use of the Lobair airplanes for travel, and publicly available records from the Illinois Secretary of State, and the FAA. The website of the Illinois Secretary of State indicates that Lobair's principals are Vonachen Services, Inc. and Michael Miller. See "Corporation File Detail Report" for Lobair LLC at <http://www.ilsos.gov/corporatellc/CorporateLlcController>. The FAA's publicly available website allows visitors to search the FAA registry for specific aircraft by name of owner and make and model, among other things. See <http://registry.faa.gov/aircraftinquiry/>. Our own search of relevant information about Lobair on the FAA website shows no aircraft registered to Lobair.

⁷ See "Corporation File Detail Report" for D&B Jet, Inc. at <http://www.ilsos.gov/corporatellc/CorporateLlcController>.

1 Complainant notes that it found no commercial or charter operation registration for D&B Jet in
2 FAA records.⁸

3 Based on information contained in a report by the *Associated Press*, the Complaint also
4 asserts that Schock took additional campaign-related flights on a non-commercial aircraft owned
5 by TC Investments,⁹ and none of his political committees reported any disbursements to TC
6 Investments or the plane's owner, Todd Green, for those flights.¹⁰ According to the *Associated*
7 *Press* article,

8 "Green's plane traveled to at least eight cities last October [2014] in the Midwest
9 and East Coast, cities where Schock met with political candidates ahead of the
10 midterm elections. His Instagram account's location data and information from
11 the service FlightAware even pinpointed Schock's location on a stretch of road
12 near one airport before Green's plane departed."¹¹

13 Though TC Investments does not appear to be a commercial air carrier or operator, Green states
14 that TC Investments leases the aircraft to Byerly Aviation and that Byerly controls the aircraft's

⁸ We did not find any record of D&B Jet in the FAA's publicly available database in our own review, though D&B Jet reportedly has a relationship with Jet Air, Inc., an aviation firm licensed by the FAA for commercial operations, who sometimes uses the D&B Jet aircraft for charter services. Compl. at 5. However, it does not appear that Schock's payments for the use of the plane were in conjunction with Jet Air's charter service. The owner of Jet Air, Inc. has stated that "any charter flights D&B Jet flies through [Mr. Timmons'] firm are paid directly to Jet Air," suggesting that payments made directly to D&B Jet were not for commercial charter flights. *Id.*

⁹ The FAA records available online show no indication that TC Investments is an air carrier or commercial operator certificated by the FAA or a governmental entity nor is there any information to suggest that the aircraft is leased by a member of Schock's immediate family.

¹⁰ *Id.* at 9. The Complaint states that the press reports are based on "metadata, associated pictures and videos Schock posted on his Instagram account" that indicate that he took flights on planes owned by TC Investments, which is managed by Todd Green, the brother of Schock campaign contributor Jeff Green. *Id.* at 5; see also Gillum and Braun, *Associated Press*, Feb. 23, 2015.

¹¹ *Id.*

1 charter and usage.¹² Byerly Aviation is located in Peoria, Illinois and is licensed to provide
2 commercial charter services.

3 Schock did not file a response to the complaint. The three committee respondents —
4 Schock for Congress, Schock Victory Committee, and Generation Y Fund — filed a joint
5 response that does not deny that Schock was a passenger on non-commercial aircraft owned by
6 Lobair, D&B Jet, and TC Investments or that those flights were campaign-related. Nor do
7 Respondents argue that these flights qualify for any exception to the prohibition on using non-
8 commercial flights for campaign activity.¹³ Instead, Respondents assert that the law regarding
9 such flights is unclear following changes to internal House Ethics Rules in 2013 which lift the
10 previous restrictions on its Members traveling on private, non-commercial aircraft, if Members
11 pay the full charter rate.¹⁴ The Joint Response asserts that the 2013 change in House rules
12 establishes that no contribution results so long as the appropriate value is paid.¹⁵

13 TC Investments and Todd Green do not deny that Schock flew on its aircraft, nor do they
14 address whether any of the Schock committees disbursed funds in connection with Schock's
15 travel. TC Investments and Green deny making any contribution or in-kind donation of their
16 aircraft to Schock.

¹² TC Investments Resp. at 1. Publicly available information indicates that Byerly Aviation is located at Peoria's General Wayne Downing International Airport and offers aircraft charter services under FAA Part 135 license. As discussed below, the Schock committee disclosure reports, however, do not report any disbursements to TC Investments, Byerly Aviation or Todd Green during 2014 for air travel related services. A review of "Statements of Disbursements of the House" for 2014 indicates that Schock's House account disbursed \$2,269.74 to Byerly Aviation on December 23, 2014, for "commercial travel."

¹³ The Respondents do not challenge the assertion that the Lobair and D&B Jet aircrafts were non-commercial. Further, our review of publicly available records does not establish that either entity had an FAA license to provide commercial charter services.

¹⁴ Joint Resp. at 1, 7; *see also* House Rule XXIII, Clause 15, Rules of the One Hundred Thirteenth Congress.

¹⁵ Joint Resp. at 3. Respondents assert that the Commission's rules are outdated and conflict with the 2013 change to the House rules. *Id.* at 7. Respondents further contend that the Complaint seeks to create a burdensome, complicated standard beyond that contemplated by Congress. *Id.* at 8.

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1 **III. ANALYSIS**

2 The Honest Leadership and Open Government Act of 2007 ("HLOGA") amended the
3 Act to prohibit House candidates from making any expenditure for non-commercial aircraft
4 travel.¹⁶ The Commission's implementing regulations similarly prohibit House candidates from
5 traveling on non-commercial aircraft¹⁷ on behalf of their own campaigns or the campaigns of
6 other candidates for the House of Representatives. The prohibition on non-commercial air travel
7 applies to any House candidate who is a "campaign traveler," which includes, "any candidate
8 traveling in connection with an election for Federal office or any individual traveling in
9 connection with an election for Federal office on behalf of a candidate or political committee."¹⁸

10 The Act also prohibits any person from making a contribution to any candidate or the
11 candidate's authorized committee with respect to a federal election which, in the aggregate,
12 exceeds \$2,500 in the 2012 election cycle and \$2,600 in the 2014 election cycle; the
13 corresponding limit for contributions to a leadership PAC is \$5,000 per year.¹⁹ The Act further
14 provides that no candidate, officer, or employee of a political committee shall knowingly accept
15 any contribution that exceeds the contribution limits.²⁰ In addition, the Act and Commission
16 regulations prohibit corporations from making any contribution, and corporate officers from

¹⁶ 52 U.S.C. § 30114(c)(2). HLOGA became effective on September 14, 2007.

¹⁷ 11 C.F.R. §§ 100.93(c)(2) and 113.5(b). The regulations became effective on January 6, 2010. *See Explanation and Justification for Campaign Travel*, 74 Fed. Reg. 63951 (Dec. 7, 2009). Commercial travel is defined as travel aboard "an aircraft operated by an air carrier or commercial operator certificated by the Federal Aviation Administration, provided that the flight is required to be conducted under FAA air carrier safety rules...." 11 C.F.R. § 100.93(a)(3)(iv)(A).

¹⁸ *Id.* § 100.93(a)(3)(i)(A).

¹⁹ *Id.* § 30116(a)(1)(A) and (C). Contribution "includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office." 52 U.S.C. § 30101(8)(a)(i).

²⁰ *Id.* § 30116(f).

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1 consenting to any corporate contribution, in connection with a federal election, and prohibit
2 candidates and committees from accepting such contributions.²¹ The Act also requires political
3 committees to file reports disclosing its receipts and disbursements, including in-kind
4 contributions.²²

5 The available information provides reason to believe that Schock, Generation Y, and
6 Schock Victory Committee violated the Act and Commission regulations in connection with
7 Schock's campaign-related flights on non-commercial aircraft. There is no information in the
8 record demonstrating that the Lobair and D&B Jet aircraft were operated by air carriers or
9 commercial operators certificated by the FAA. To the contrary, respondents do not rebut this
10 fact in their responses, and publicly available FAA records show no record of Lobair or D&B Jet
11 being licensed for commercial charter services. Further, the record provides sufficient
12 information from which we can reasonably infer that Schock traveled as a campaign traveler on
13 those flights at issue, i.e., he was a "candidate traveling in connection with an election for
14 Federal office or any individual traveling in connection with an election for Federal office on
15 behalf of a candidate or political committee."²³ In particular, with respect to the Lobair and
16 D&B Jet flights, the complaint specifically alleges that Schock traveled on the flights and the
17 joint response of Schock and Respondents fail to rebut that allegation, instead arguing that

²¹ *Id.* § 30118(a) and 11 C.F.R. § 114.2(e).

²² *Id.* § 30104(a)-(b); 11 C.F.R. § 104.1-104.3 and 104.13.

²³ 11 C.F.R. § 100.93(a)(3)(i)(A).

1 campaign travel on non-commercial flights was allowed by House Ethics rules.²⁴ And Schock's
2 leadership PAC, Generation Y, paid for all but one of the flights; and the remaining flight was
3 paid for by Schock Victory Committee, the joint fundraising committee in which Schock's
4 authorized committee and leadership PAC were participants.²⁵ Based on this information, it is
5 apparent that Schock, Generation Y, and Schock Victory Committee violated the Act's
6 prohibition on non-commercial travel.

7 Further, the scope of the HLOGA violation may extend to the TC Investments flights,
8 though the information with regard to these flights is less clear. Complainant asserts and
9 Respondents do not deny that Schock traveled on an aircraft owned by TC Investments in
10 November 2013 and at various times in October 2014 in connection with campaign-related
11 events.²⁶ TC Investments, however, states that it leases its aircraft to Byerly Aviation, an entity
12 licensed by the FAA to provide commercial charter services, which raises a question as to
13 whether the flights in question were non-commercial or commercial. Specifically, it is unclear
14 whether Byerly Aviation has exclusive control of the aircraft's usage and charters, which would
15 render flights on the aircraft commercial, or if TC Investments and Todd Green also had access

²⁴ Respondents assert that a 2013 change in the internal House Ethics Rules now allows its members to use non-commercial aircraft for all purposes, including trips paid for with campaign funds and argue that this change reflects a congressional intent to undo the HLOGA prohibition on the use of non-commercial aircraft for campaign travel. This argument is unconvincing. The House of Representatives cannot unilaterally modify the statutory HLOGA prohibition via a change in its internal Ethics Rules. While Congress could enact a statute which modifies the HLOGA prohibition, such a change would require action by both the House of Representatives and the Senate, followed by a signature from the President. That did not happen here. The HLOGA prohibition and the Commission's implementing regulations remain the law for campaign-related travel by House members such as former Representative Schock.

²⁵ See Joint Resp., generally.

²⁶ As noted above, *see supra* at 6, the Complaint's allegation regarding the TC Investments flights is based on inferences connecting information about the location of Green's plane, with Schock's own social media accounts of his campaign travels. It is unclear based on the available information which committee Schock may have been traveling on behalf of.

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1 to the aircraft on a non-commercial basis for some or all of the campaign-related flights that the
2 Complaint alleges took place during 2014. Thus, we would seek to resolve these questions in
3 our recommended investigation.

4 In short, the Complaint provides sufficient information to find reason to believe that
5 Schock, his leadership PAC and the joint fundraising committee violated HLOGA when Schock
6 flew on non-commercial flights as a campaign traveler. Further, Respondents do not
7 "convincingly demonstrate that no violation has occurred."²⁷ Accordingly, we recommend that
8 the Commission find reason to believe that Aaron Schock violated 52 U.S.C. § 30114(c)(2) and
9 11 C.F.R. §§ 100.93(c)(2) and 113.5(b) by traveling on non-commercial aircraft in connection
10 with an election for federal office, and that Schock Victory Committee and Paul Kilgore in his
11 official capacity as treasurer and GOP Generation Y Fund and Paul Kilgore in his official
12 capacity as treasurer each violated 52 U.S.C. § 30114(c)(2) and 11 C.F.R. § 113.5(b) by making
13 expenditures for prohibited campaign-related flights on non-commercial aircraft. Because the
14 disbursements for the Lobair and D&B Air flights appear to have been made exclusively by
15 Schock Victory Committee and Generation Y, and the information regarding the TC Investments
16 flights is less clear, we recommend that the Commission take no action at this time with respect
17 to the allegation that Schock for Congress and Paul Kilgore in his official capacity violated
18 52 U.S.C. § 30114(c)(2) and 11 C.F.R. § 113.5(b) by making expenditures for prohibited
19 campaign-related flights on non-commercial aircraft.

20 In addition, a review of the Commission disclosure reports for Schock for Congress,
21 Schock Victory Committee and Generation Y shows no disbursements to TC Investments or

²⁷ See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545, 12,546 (Mar. 16, 2007) (explaining that a "no reason to believe" finding would be appropriate when "the respondents response or other evidence convincingly demonstrates that no violation has occurred").

1 Byerly Aviation for any charter flights during his time period.²⁸ Although the *Associated Press*
2 article refers to a disbursement of \$12,560 from Generation Y to Jeffrey Green, the brother of
3 Todd Green, the committee's disclosure report reflects that this disbursement was for "event
4 equipment rental/catering" and appears to be related to an event at the Autobahn Country
5 Club."²⁹ Further, a review of "Statements of Disbursements of the House" for 2014 indicates
6 that Schock's House account disbursed \$2,269.74 to Byerly Aviation on December 23, 2014, for
7 "commercial travel."³⁰ However, we are unable to determine with the information available if
8 this disbursement by Schock's House account for official business is any way connected to the
9 multiple flights allegedly taken by Schock to visit federal candidates shortly before the 2014
10 election. Accordingly, we recommend that the Commission take no action at this time with
11 respect to the allegation that TC Investments 3, LLC and Todd Green and Schock for Congress
12 violated the Act by making and receiving, respectively, prohibited or excessive in-kind
13 contributions in the form of campaign-related flights on the non-commercial aircraft, and with
14 respect to the allegations that Schock for Congress violated the Act by failing to report the
15 in-kind contributions.

16 IV. INVESTIGATION

17 An investigation is required to determine the full scope of the HLOGA violations
18 including whether the TC Investment flights were commercial or non-commercial, the value of
19 those flights, and whether Schock took any other campaign-related non-commercial flights on

²⁸ The *Associated Press* article also infers the Schock flew on Green's plane in November 2013. According to the article, however, Schock billed his office account \$11,433 for commercial transportation during that same, four-day period to a Peoria flight company, Byerly Aviation.

²⁹ See Gillum and Braun, *Associated Press*, Feb. 23, 2015; see also GOP Generation Y Fund, 2014 Post-General Report (Nov. 24, 2014).

³⁰ See http://disbursements.house.gov/2014q4/2014q4_singlevolume.pdf.

the aircrafts at issue. Although we hope to obtain the required information through informal discovery, we would recommend that the Commission authorize the use of compulsory process.

V. RECOMMENDATIONS

1. Find reason to believe that Aaron Schock violated 52 U.S.C. § 30114(c)(2), 11 C.F.R. § 100.93(c)(2) and 11 C.F.R. § 113.5(b).
2. Find reason to believe that Schock Victory Committee and Paul Kilgore in his official capacity as treasurer violated 52 U.S.C. § 30114(c)(2) and 11 C.F.R. § 113.5(b).
3. Find reason to believe that GOP Generation Y Fund and Paul Kilgore in his official capacity as treasurer violated 52 U.S.C. § 30114(c)(2) and 11 C.F.R. § 113.5(b).
4. Take no action at this time with respect to Schock for Congress and Paul Kilgore in his official capacity as treasurer.
5. Take no action at this time with respect to the allegation that Aaron Schock violated 52 U.S.C. § 30116(f) or 52 U.S.C. § 30118(a).
6. Take no action at this time as to TC Investments 3, LLC and Todd Green.
7. Approve the use of compulsory process.
8. Approve the Factual and Legal Analyses.
9. Approve the appropriate letters.

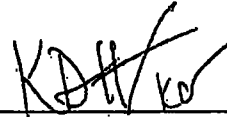
12-24-15
Date

Daniel A. Petalas
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Mark D. Shonkwiler
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Handwritten signature of Kimberly D. Hart in black ink, consisting of stylized initials 'KD' followed by a large 'H' and a checkmark-like flourish.

Kimberly D. Hart
Staff Attorney

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